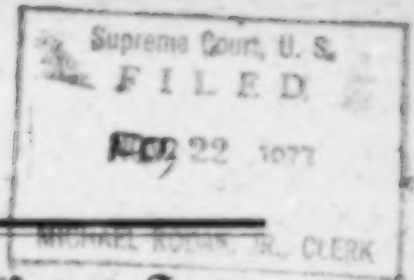


No. 76-688



In the Supreme Court of the United States

OCTOBER TERM, 1976

CHICAGO TYPOGRAPHICAL UNION No. 16, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD, ET AL.

***ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT***

**MEMORANDUM FOR THE NATIONAL LABOR
RELATIONS BOARD**

DANIEL M. FRIEDMAN,
*Acting Solicitor General,
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Washington, D.C. 20570.*

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1. In August 1973, when agreement on a new contract was not reached, a work stoppage began at the Company's¹ composing room (Pet. App. A7). Company supervisors Norman Andress and Vernon Palmer were both members of petitioner Union (Pet. App. A6-A7, A15-A19). They crossed the Union's picket lines and continued to perform their supervisory functions, including grievance adjustment (Pet. App. A26). Both also performed a minimal amount of rank-and-file composing room work (Pet. App. A30). The Union subsequently fined both Andress and Palmer \$1,000 and expelled them from the Union for working during the work stoppage (Pet. App. A10, A20-A21). The Board

¹Hammond Publishers, Inc., the charging party before the Board and an intervenor in the court of appeals.

(Member Fanning dissenting) held that the Union discipline violated Section 8(b)(1)(B) of the National Labor Relations Act, 29 U.S.C. 158(b)(1)(B), which prohibits a union from restraining or coercing an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances (Pet. App. A25-A43). The Board entered an appropriate order (Pet. App. A32-A33). The court of appeals enforced the Board's order without opinion (Pet. App. A44).

2. The basic question presented is whether a union violates Section 8(b)(1)(B) of the National Labor Relations Act by disciplining supervisor-members who represent management in grievance adjustment or collective bargaining for crossing union picket lines to perform supervisory functions during a work stoppage. The same basic question is presented in *American Broadcasting Companies, Inc. v. National Labor Relations Board*, and *National Labor Relations Board v. Writers Guild of America, West, Inc.*, Nos. 75-4089, 75-4121 (hereafter *Writers Guild*), decided November 22, 1976, where the Second Circuit reached a conclusion contrary to that of the court of appeals in the present case. The Board intends to file a petition for a writ of certiorari to review the decision in *Writers Guild*.²

3. In view of the foregoing, the Board does not oppose the granting of the petition in the present case and suggests

²A petition has already been filed by the companies. *American Broadcasting Companies v. Writers Guild of America, West, Inc.*, No. 76-1121, filed February 14, 1977.

that the case be set down for argument along with *Writers Guild*.³

Respectfully submitted,

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Acting Solicitor General.

JOHN S. IRVING,
General Counsel,
National Labor Relations Board.

FEBRUARY 1977.

³This would enable the Court to consider the issue in all of its dimensions. While the supervisors here performed a minimal amount of rank-and-file work during the work stoppage, the supervisors in *Writers Guild* performed only supervisory work.